c) REMARKS

The claims are 81-85, 89-96, 98 and 99 with claims 81 and 93 being independent. The claims have been amended to better define the intended invention.

Support for the amended claims is found, inter alia, on page 30, lines 5-8; page 31, lines 7-15 and in Figs. 5A, 5B, 6E, 7, 10B, 12B, 14B and the like.

As shown, for example, in Fig. 5B a protrusion 3 has a minute opening 30 on its tip. This opening 30 communicates with a light emitting region 18 of surface emitting laser 4. The light emitted from region 18 is irradiated directly through opening 30 in protrusion 3. As noted on specification pages 1 and 2 and shown in Figs. 1 and 2 in the prior art, light is transported to an aperture 610 via optical fiber 603 from an indirect light source through light waveguide layer 608.

Claims 81-85, 89-96, 98 and 99 were rejected as an obviousness-type double patenting over claims 1-14 of U.S. Patent No. 6,201,226 (Shimada '226). The rejection is respectfully traversed.

Claim 1 of Shimada '226 requires, inter alia, (1) "an optical waveguide"; (2) "at least one of a light emitting element and a light receiving element provided on a substrate"; and (3) "at least one of the light emitting element and light receiving element optically connected to a hollow tip through said waveguide ...."

Claim 9 of Shimada '226 requires:

(1) at least one of a light-emitting element and a light receiving element provided on a substrate at a position facing a hollow tip on a cantilever and a space formed between said cantilever and said substrate; and

(2) at least one of the light-emitting or light receiving elements connected to the tip through the empty space between the cantilever and substrate.

As shown in Shimada '266 in Figs. 1, 2A, 2B, 3E, 5, 6E, 8, 9A, 10E and the like, and as described in column 3, line 51; column 6, lines 20-22 and column 10, lines 1-6, substrate 21 has a cantilever 10 with a hollow tip 5 at one free end and a fixed portion embedded in the substrate at the other end. A laser 20 on the substrate 21 is optically connected to the tip 5 through a waveguide 28. As further disclosed in column 6, lines 18-22, cantilever 10 has a tip 5 on end and is fixed to the substrate 21 at the other end. In use, evanescent light from laser 20 is conducted through waveguide 28 to optically connect the laser 20 and tip 5.

The present claimed invention does not include the optical waveguide of claim 1 of Shimada or the light emitting element optically connected to a hollow tip through the waveguide. Further, the claimed invention does not include the light-emitting element on the substrate, a space formed between the cantilever and substrate and the optical connection through the empty space between the cantilever and substrate set forth in claim 9 of Shimada.

In addition, the claims of Shimada do not recite a protrusion with an opening placed on a light emitting region of a surface light emitting device as presently claimed. Therefore, the instant claims are distinct from the Shimada claims.

It is respectfully requested that the amendment be entered, the final rejection be withdrawn, the claims be allowed and that the case be passed to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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